

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

CR 08-00160 JCS

Plaintiff(s),

ORDER FOR PRETRIAL PREPARATION
FOR CRIMINAL JURY TRIAL

v.

JOHN JOSEPH COTA,

Defendant(s).

Following a Scheduling Conference held on April 4, 2008, at 10:30 a.m., IT IS HEREBY
ORDERED THAT:

1. **TRIAL DATE**

a. Trial by the Jury will begin on **May 27, 2008, at 8:30 a.m., in Courtroom D,
15th Floor**, 450 Golden Gate Avenue, San Francisco, California.

b. The length of the trial shall be not more than twelve (12) days.

2. **DISCOVERY**

a. Both sides will comply with the Federal Rules of Criminal Procedure, and the
United States will comply with *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405
U.S. 150 (1972), and *United States v. Agurs*, 427 U.S. 97 (1976).

3. **MOTIONS**

a. Pretrial motions other than motions in limine may be noticed for any available
Friday at 10:30 a.m. on or before the Pretrial Conference, or for the date set for the Pretrial
Conference. Motions shall be noticed in compliance with Local Rule 47-2.

1 4. **PRETRIAL CONFERENCE**

2 a. A Pretrial Conference will be held on **May 16, 2008, at 1:30 p.m.**, in
3 Courtroom A. It shall be attended by the attorneys who will try the case.

4 b. Not less than two (2) weeks before the Pretrial Conference, the parties shall
5 each complete (except as noted in paragraph 4(b)(8)) the following:

- 6 1) Serve and file a pretrial statement pursuant to Crim. L.R. 17.1-1(b).
- 7 2) Serve and file a trial brief setting forth the following:
 - 8 (a) A description of each offense charged in the case.
 - 9 (b) The evidence anticipated in the case.
 - 10 (c) A description of the law applicable to each alleged offense,
11 including, but not limited to, a listing of the elements of each
12 alleged offense and affirmative defense.
 - 13 (d) Points of law on any other issues relevant to the trial, including
14 all foreseeable procedural and evidentiary issues.
- 15 3) Serve and file any motions in limine.
- 16 4) Serve and file a numerical list of each party's exhibits, including a
17 brief statement describing the substance and purpose of each exhibit
18 and the name of the sponsoring witness.
- 19 5) Serve and file a list of the witnesses that each party intends to call at
20 the trial, not including rebuttal witnesses, setting forth for each witness
21 the substance of their testimony.
- 22 6) In jury trials, serve and file proposed jury instructions on all
23 substantive issues, and or any procedural issues not ordinarily
24 covered by the Ninth Circuit Manual of Model Jury Instructions. An
25 additional copy of the proposed instructions shall be submitted in
26 WordPerfect 13.0 format and shall be submitted to Judge Spero's
27 chambers on a CD.
- 28 7) In jury cases, serve and lodge a proposed form of verdict.

- 1 8) In jury cases, proposed voir dire questions. Voir dire by counsel will
2 not be permitted absent leave of the Court. Prospective jurors will fill
3 out the attached questionnaire. The United States shall comply with
4 4(b)(1)-(8). The Defendant shall comply with 4(b)1), 3), 6), 7), and
5 8), and shall comply with 4 (b)2), 4), and 5), to the extent consistent
6 with Defendant's right to an effective defense.
- 7 9) Exchange exhibits, which shall be **pre-marked** with an exhibit sticker
8 (example attached), **tabbed and in 3-ring binders**. Plaintiff shall use
9 numbers (1,2, 3, etc.) and defendant shall use numbers preceded by a
10 letter (A-1, A-2, A-3, etc.). Additional parties shall also use a letter
11 preceding numbers (B-1, B-2, B-3, or C-1, C-2, C-3, etc.). A single
12 exhibit should be marked only once. If the plaintiff has marked an
13 exhibit, then the defendant should not re-mark the exact document
14 with another number. Different *versions* of the same document, *e.g.*, a
15 copy with additional handwriting, must be treated as different exhibits
16 with different numbers.
- 17 10) Spine labels should indicate the numbers of the exhibits that are in the
18 binders. Each set of exhibit binders shall be marked as "Original".
19 Deposit the exhibits with the deputy clerk ten (10) days before the
20 Pretrial Conference. Exhibits are not filed.
- 21 11) In addition to the official record exhibits, a *single, joint* set of bench
22 binders containing a copy of the exhibits must be provided to the
23 Court ten (10) days before the Pretrial Conference, and should be
24 marked as "Chambers Copies". Each exhibit must be separated with a
25 label divider identifying the exhibit number. (An exhibit tag is
26 unnecessary for the bench set.) Spine labels should indicate the
27 numbers of the exhibits that are in the binders.
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12) Counsel must consult with each other and with the deputy clerk at the end of each trial day and compare notes as to which exhibits are in evidence and any limitations thereon. If there are any differences, counsel should bring them promptly to the Court's attention.

13) Before closing arguments, counsel must confer with the deputy clerk to make sure the exhibits in evidence are in good order. Counsel may, but are not required to, jointly provide a revised list of all exhibits actually in evidence (and no others) stating the exhibit number and a brief, non-argumentative description.

c. Not less than one (1) week prior to the Pretrial Conference, the parties shall serve and file any opposition to any motion in limine (there shall be no reply briefs).

d. All motions in limine shall be heard at the Pretrial Conference.

e. Courtesy copies of all documents shall be provided for chambers at the time of filing.

5. **PRETRIAL ARRANGEMENTS**

a. Should a daily transcript and/or real-time reporting be desired, the parties shall make arrangements with Debra Campbell, Supervisor of the Court Reporting Services, at (415) 522-2079, at least ten (10) days prior to the trial date.

b. During trial, counsel may wish to use overhead projectors, laser-disk/computer graphics, poster blow-ups, models, or specimens of devices. Equipment should be shared by all counsel to the maximum extent possible. The Court provides no equipment other than an easel. The United States Marshal requires a court order to allow equipment into the courthouse. For electronic equipment, parties shall be prepared to maintain the equipment or have a technician handy at all times. The parties shall tape extension cords to the carpet for safety. The parties may work with the deputy clerk, Karen Hom (415) 522-2035, on all courtroom-layout issues.

6. **SCHEDULING**

a. Trial will be conducted from 8:30 a.m. to 2:30 p.m. (or slightly longer to finish a witness) with two fifteen-minute breaks, and a lunch break, Monday through Thursday, excluding holidays. Counsel must arrive by 8:15 a.m., or earlier as needed for any matters to be heard out of

1 the presence of the jury. The jury will be called at 8:30 a.m. Jury deliberations will be allowed on
2 Fridays.

3 IT IS SO ORDERED.

4 DATED: April 7, 2008

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7 JOSEPH C. SPERO
8 United States Magistrate Judge
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CONFIDENTIALJUROR QUESTIONNAIRE

Please fill out this form as completely as possible and print clearly. Since we want to make copies for the attorneys and the Court, do not write on the back of any page. If you need more room, continue at the bottom or on the side of the page. Thank you for your cooperation.

1. Your name: _____
2. Your age: _____
3. City in which you reside: _____
4. Your place of birth: _____
5. Do you rent or own your own home? _____
6. Are you married or do you have a domestic partner? ____ Yes ____ No
7. Please list the occupation of your spouse or domestic partner. _____
8. If you are not married and do not have a domestic partner, are you (circle one, if applicable):
 single separated divorced widowed
9. If you have children, please list their ages and sex and, if they are employed, please give their occupations.

10. What is your occupation and how long have you worked in it? (If you are retired, please describe your main occupation when you were working). _____

11. Who is (or was) your employer? _____
12. How long have you worked for this employer? _____
13. Please describe your education background:
 Highest grade completed: _____
 College and/or vocational schools you have attended: _____

 Major areas of study: _____
14. Have you ever had jury experience? ____ Number of times? ____
 If yes: State/County Court _____ Federal Court _____
 When? _____ Was it a civil or criminal case? ____
 Did any of the juries reach a verdict ? ____ Yes ____ No

ATTACHMENT EXHIBIT TAG:

The exhibit tag shall be in the following form:

<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA</p> <p>PLAINTIFF EXHIBIT NO. _____</p> <p>Case No. _____</p> <p>Date Admitted: _____</p> <p>By _____ Deputy Clerk</p>
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<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA</p> <p>DEFENDANT EXHIBIT NO. _____</p> <p>Case No. _____</p> <p>Date Admitted _____</p> <p>By _____ Deputy Clerk</p>
